

**TUESDAY, NOVEMBER 9, 1976**



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**PART III:**

## **DEPARTMENT OF LABOR**

**Employment and Training  
Administration**



### **DISASTER UNEMPLOYMENT ASSISTANCE**

**Proposed Revision**

## DEPARTMENT OF LABOR

## Employment and Training Administration

## [20 CFR Part 625]

## DISASTER UNEMPLOYMENT ASSISTANCE

## Notice of Proposed Rulemaking

On October 11, 1974, a document was published in the FEDERAL REGISTER (39 FR 36579) revising Part 625 in Chapter V of Title 20 of the Code of Federal Regulations to facilitate the implementation of the Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143.

Although the revised Part 625 was made effective upon publication in the FEDERAL REGISTER, comments were solicited through November 11, 1974. No written comments were received. However, oral comments with respect to the revision of Part 625 from persons administering the program have been given due consideration, and the Part is proposed to be revised in the light of these comments.

## PROPOSED CHANGES

The proposed changes to Part 625 are summarized as follows:

1. Technical and clarifying changes are made throughout Part 625, including renumbering of sections, addition of paragraph headings and the transferring of provisions from one section to another.

2. In § 625.1 the savings clause retaining Part 625 as in effect on March 31, 1974, with respect to the application of the Disaster Relief Act of 1970 to major disasters declared prior to April 1, 1974, was deleted and made a new section designated § 625.20.

3. In § 625.2(c) defining "Announcement date" the State agency shall now announce the availability of disaster unemployment assistance in place of the Governor. This should make more additional information available to the public.

4. In § 625.2(f) redefining "Disaster assistance period" so as to accord with no payments being made prior to the major disaster as prescribed in the Disaster Relief Act of 1974.

5. In § 625.2(r) adding the "State law" applicable to the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

6. In § 625.2(w) redefining "Week of unemployment" so that any wages an individual earns shall be deducted as prescribed in the applicable State law.

7. In § 625.2 three definitions, namely: "Applicable State law", "Notification", and "Suitable work" have been deleted as the terms are more clearly defined in subsequent sections. In addition eight new definitions were added, namely: "Agreement", "Compensation", "Emergency Compensation", "SUA", "DUA", "Federal Coordinating Officer", "Unemployed worker", and "Unemployed Self-Employed Individual." These definitions have been used in administering the program in the past but were not defined terms. As a result, the majority of

subparagraphs in this section have been relettered to permit the defined terms to occur in alphabetical order.

8. In § 625.3 this section has been renumbered § 625.17 and entitled "Announcement of the beginning of a Disaster Assistance Period." The general context has remained the same with the exception that the State agency shall announce the availability of DUA as defined in "Announcement date" instead of the Governor. This should permit the public to have available more information pertaining to the filing of applications since the State shall use all available news media to inform the public of the procedures for filing applications.

9. In § 625.4 the section has been renumbered § 625.8, "Applications for Disaster Unemployment Assistance." This section has been expanded to include "Interstate applications" formerly § 625.6. There is no substantive change.

10. In § 625.7, "Eligibility", the section has been renumbered § 625.4, "Eligibility requirements for DUA." Three new requirements have been added. First, the State agency must have entered into an Agreement with the Secretary of Labor. Second, week is a week of unemployment for the individual. Third, the individual has not refused a bona fide offer of suitable employment. All three of these requirements had to be met in the past, but were not specified in § 625.7.

11. In § 625.8 this section has been changed to § 625.5, "Unemployment caused by a major disaster." This section has been reworded to discern between an unemployed worker and an unemployed self-employed individual. In addition it has added the category to include the individual who has been injured as a direct result of a major disaster and cannot work. It has deleted the category that an individual who was unemployed at the time of the major disaster for a period of less than 10 weeks shall be eligible and also the individual who has completed training or schooling 10 weeks prior to the major disaster. It is believed that the unemployment of these two classes of individuals cannot be considered a direct cause of the major disaster and their primary source of income and livelihood was not lost or interrupted as a direct result of the major disaster.

12. In § 625.9, "Amount", the section is now designated § 625.6, "Disaster Unemployment Assistance; weekly amount." In computing an individual's weekly amount, the provisions change the computation so that an individual's weekly amount shall be computed by the same computation as used in the applicable State law for computing regular UI weekly amounts with the exception that both covered and noncovered wages shall be used. This will limit an individual's weekly DUA amount to no more than the weekly amount that the individual would be entitled to if the individual would be receiving unemployment compensation. Many complaints have been received that low paid workers receive more under the present computation than they earned while employed prior

to the major disaster. This section shall also deduct wages for any week to the same extent such wages are deductible under the applicable State law. This will enable the State agency to compute the deductible amount uniformly and only once for both UI and DUA. The other deductions presently contained in § 625.9 have now been included in § 625.13, "Restrictions on Entitlement."

13. In § 625.10, "Disclosure of Information," is now renumbered § 625.16. The section has been expanded to include the effect of the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a).

14. In § 625.11, "Determination" the section has been renumbered § 625.9. Although the State agencies used affidavits in securing employment information for computing an individual's DUA entitlement, the regulations never specified that the State agency use the affidavit when wage information was not available.

15. In § 625.12, "Reconsideration and Review," the section has been titled "Appeal and Review" and renumbered § 625.10. Although the section has been amplified, only one substantive change is made. The Assistant Secretary for Employment and Training Administration on his motion only may review any application for DUA. This shall permit uniformity throughout the regions and States.

16. In § 625.13, "Overpayments," the section is renumbered § 625.14, "Overpayments; disqualification for fraud." This section has been amplified, although the added provisions have been used in administering the program, but were not specified in the regulations. The applicable State agency shall recover any overpayment of DUA which the individual may have in another State agency. Disaster Unemployment Assistance shall be used to recover any debt owed to the United States, but not a debt owed to any other entity, any State or person.

A State agency shall not waive any DUA overpayment even if State law permits the waiver of regular UI overpayments. In addition a new administrative penalty is added for any individual filing a fraudulent application. The applicable State law was not used as due to the average weeks of DUA an individual receives and the number of Disaster Unemployment Assistance Periods the individual would normally encounter compared to UI, the State law penalties generally would be too severe and not effective.

17. In § 625.15 the information has been consolidated in § 625.1 and § 625.15 deleted.

The proposed revised regulations contain five new sections. They are as follows:

18. In § 625.11 it is provided that the terms and conditions of the applicable State law shall apply as specifically set forth in the provisions of this Part.

19. In § 625.12 the section contains the definition "applicable State law" (625.2 (d)) which has been deleted from the definitions.

20. In § 625.13 the reductions applicable to DUA and which have been deleted

ed from § 625.9 are now included as restrictions on entitlement.

21. In § 625.15 it is provided that an individual may not waive, release or assign any of the individual's rights to DUA. In addition it provides that certain legal process is prohibited.

22. In § 625.18 a provision is made that the public, as required under the Freedom of Information Act, is entitled to obtain a copy of the Agreement between the State and the Secretary of Labor if so requested.

#### COMMENTS ON PROPOSAL

Interested persons are invited to submit written data, views or arguments on these proposed regulations to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 D Street N.W., Washington, D.C. 20213.

All comments received on or before December 9, 1976, will be considered before taking action on the proposal. All comments received in response to this invitation will be available for public inspection during normal business hours at the foregoing address.

Signed at Washington, D.C., on November 3, 1976.

WILLIAM H. KOLBERG,  
Assistant Secretary for  
Employment and Training.

In consideration of the foregoing it is proposed that Part 625 of Chapter V of Title 20, Code of Federal Regulations, be revised as set out below:

#### PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

- Sec. 625.1 Purpose; rules of construction.
- 625.2 Definitions.
- 625.3 Employment services.
- 625.4 Eligibility requirements for Disaster Unemployment Assistance.
- 625.5 Unemployment caused by a major disaster.
- 625.6 Disaster Unemployment Assistance: weekly amount.
- 625.7 Disaster Unemployment Assistance: duration.
- 625.8 Applications for Disaster Unemployment Assistance.
- 625.9 Determination of entitlement; notices to individual.
- 625.10 Appeal and review.
- 625.11 Provisions of State law applicable.
- 625.12 The applicable State for an individual.
- 625.13 Restrictions on entitlement; disqualification.
- 625.14 Overpayments; disqualification for fraud.
- 625.15 Inviolable rights to DUA.
- 625.16 Recordkeeping; disclosure of information.
- 625.17 Announcement of the beginning of a Disaster Assistance Period.
- 625.18 Public access to Agreements.
- 625.19 Information, reports and studies.
- 625.20 Savings clause.

AUTHORITY: Secs. 302(a) and 601, Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143, 146, 163; EO 11795, 39 FR 25939; and the delegation of authority from the Secretary of Housing and Urban Development to the Secretary of Labor, effective August 5, 1974, 39 FR 33020. Interpret or apply sec. 407 of the Disaster Relief Act of 1974, 88 Stat. 156.

#### § 625.1 Purpose; rules of construction.

(a) *Purpose.* Section 407 of the "Disaster Relief Act of 1974" created a program for the payment of unemployment assistance to unemployed individuals whose unemployment is caused by a major disaster, and to provide employment services to those individuals. The unemployment assistance provided for in section 407 of the Act is hereinafter referred to as Disaster Unemployment Assistance, or DUA. The regulations in this Part are issued to implement section 407 of the Act.

(b) *First rule of construction.* Section 407 of the Act and the implementing regulations in this Part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* Section 407 of the Act and the implementing regulations in this Part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) *Effectuating purpose and rules of construction.*

(1) In order to effectuate the provisions of this section each State agency shall forward to the United States Department of Labor, not later than 10 days after issuance, a copy of each judicial or administrative decision ruling on an individual's entitlement to DUA. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to DUA.

(2) If the Department believes a determination, redetermination, or decision is inconsistent with the Secretary's interpretation of the Act, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in any appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) A State agency may request reconsideration of a notice that a determination, redetermination, or decision is inconsistent with the Act, and shall be given an opportunity to present views and arguments if desired. If a determination, redetermination, or decision setting a precedent becomes final, which the Department believes to be inconsistent with the Act, the Secretary will decide whether the Agreement with the State shall be terminated.

(4) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the

absence of a notice issued pursuant to this paragraph.

#### § 625.2 Definitions.

For the purposes of the Act and this Part:

(a) "Act" means section 407 of the Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143, 156, approved May 22, 1974; 42 U.S.C. 5177.

(b) "Agreement" means the Agreement entered into pursuant to the Act, Between a State and the Secretary of Labor of the United States, under which the State agency of the State agrees to make payments of Disaster Unemployment Assistance in accordance with the Act and the regulations and procedures thereunder prescribed by the Secretary.

(c) "Announcement date" means the first day on which the State agency publicly announces the availability of Disaster Unemployment Assistance in the State, pursuant to § 625.17 of this Part.

(d) (1) "Compensation" means unemployment compensation; that is, cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, extended, and emergence compensation as defined in this section, and unemployment compensation payable under the Hawaii Agricultural Unemployment Compensation Law and the Railroad Unemployment Insurance Act.

(2) "Regular compensation" means compensation payable to an individual under any State law or the unemployment compensation plan of a political subdivision of a State and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85 (Parts 609 and 614 of this Chapter), but not including extended compensation or additional compensation.

(3) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason for conditions of high unemployment or by reason of other special factors, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

(4) "Extended compensation" means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 (title II Public Law 91-373; 84 Stat. 695, 708; Part 615 of this Chapter), as amended, with respect to the payment of extended compensation, and, when so payable, includes additional compensation and compensation payable pursuant to 5 U.S.C. Chapter 85.

(5) "Emergency compensation" means compensation payable under the Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572; 88 Stat. 1869; Part 618 of this Chapter, 41 FR 12151), as amended, and which is referred to as Federal Supplemental Benefits.

(6) "Special Unemployment Assistance" means the unemployment assistance payable under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (title II, Pub. L. 93-567;

88 Stat. 1845, 1850; Part 619 of this Chapter, 41 FR 12161), as amended.

(e) "Date the major disaster began" means the date a major disaster first occurred, as specified in the understanding between the Federal Disaster Assistance Administration and the Governor of the State in which the major disaster occurred.

(f) "Disaster Assistance Period" means the period beginning with the first Sunday following the date the major disaster began, and ending with the last week which begins prior to one year subsequent to the date the major disaster was declared, or, if earlier, the date the Federal Coordinating Officer, after consultation with the appropriate Regional Administrator, Employment and Training Administration has determined that unemployment in the major disaster area is no longer attributable to the major disaster.

(g) "Disaster Unemployment Assistance" means the assistance payable to an individual eligible for the assistance under the Act and this Part, and which is referred to as DUA.

(h) "Federal Coordinating Officer" means the official appointed pursuant to section 303 of the Disaster Relief Act of 1974, to operate in the affected major disaster area.

(i) "Governor" means the chief executive of a State.

(j) "Initial application" means the first application for DUA filed by an individual, on the basis of which the individual's eligibility for DUA is determined.

(k) "Major disaster" means a major disaster as declared by the President pursuant to section 301(b) of the Disaster Relief Act of 1974.

(l) "Major disaster area" means the area identified as eligible for Federal assistance by the Federal Disaster Assistance Administration, pursuant to a Presidential declaration of a major disaster.

(m) "Secretary" means the Secretary of Labor of the United States.

(n) "Self-employed individual" means an individual whose primary reliance for income is on the performance of services in the individual's own business, or on the individual's own farm.

(o) "Self-employment" means services performed as a self-employed individual.

(p) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(q) "State agency" means—

(1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency administering the State law; and

(2) In the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency designated in the Agreement entered into by the State.

(r) "State law" means, with respect to—

(1) The States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, the unemployment compensation law of the State which has been approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304; and

(2) The Virgin Islands, the unemployment compensation law of the Virgin Islands; and

(3) The Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the Hawaii Employment Security Law.

(s) "Unemployed worker" means an individual who lived in or was employed in the major disaster area at the time the major disaster began and whose principal source of income and livelihood is dependent upon the individual's employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a).

(t) "Unemployed self-employed individual" means an individual who lived in or was employed in the major disaster area at the time the major disaster began and whose principal source of income and livelihood is dependent upon the individual's performance of service in self-employment, and whose unemployment is caused by a major disaster as provided in § 625.5(b).

(u) "Wages" means remuneration for services performed for another, and net income from services performed in self-employment.

(v) "Week" means a week as defined in the applicable State law.

(w) "Week of unemployment" means—

(1) For an unemployed worker, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no work and earns no wages, or has less than full-time work and earns wages equal to, not more than the earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages in excess of the earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual works less than regular, full-time hours for the individual's regular employer, as a direct result of the major disaster, and earns more than the earnings allowance prescribed by the applicable State law.

(2) For an unemployed self-employed individual, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no services in self-employment or in an employer-employee relationship, or performs services less than full-time and earns not more than the earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the

individual has odd jobs or subsidiary work and earns wages in excess of the earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns more than the earnings allowance prescribed by the applicable State law, or during which the only activities or services performed are for the sole purpose of enabling the individual to resume self-employment.

(3) If the week of unemployment for which an individual claims DUA is a week with respect to which the individual is reemployed in a suitable position or has commenced services in self-employment, that week shall be treated as a week of partial unemployment if the week qualifies as a week of partial unemployment as defined in this paragraph.

### § 625.3 Employment services.

Individuals applying for DUA and all other individuals who are unemployed because of a major disaster shall be afforded employment services, including counseling, referrals to suitable work opportunities, and suitable training, to assist them in obtaining reemployment in suitable positions as soon as possible.

### § 625.4 Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this Part, if:

(a) That week begins during a Disaster Assistance Period;

(b) The State has entered into an Agreement which is in effect with respect to that week;

(c) The individual is an unemployed worker or an unemployed self-employed individual;

(d) The individual's unemployment with respect to that week is caused by a major disaster, as provided in § 625.5;

(e) The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week;

(f) That week is a week of unemployment for the individual;

(g) The individual is able to work and available for work within the meaning of the applicable State law: *Provided*, That, an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment; and

(h) The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if the employment or self-employment could have been undertaken in that week or in any prior week in the Disaster Assistance Period.

**§ 625.5 Unemployment caused by a major disaster.**

(a) *Unemployed worker.* The unemployment of an unemployed worker is caused by a major disaster if:

(1) The individual no longer has a job as a direct result of the major disaster; or

(2) The individual is unable to reach the place of employment as a direct result of the major disaster; or

(3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or

(4) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster; or

(5) The individual cannot work because of an injury caused as a direct result of the major disaster.

(b) *Unemployed self-employed individual.* The unemployment of an unemployed self-employed individual is caused by a major disaster if:

(1) The individual no longer can perform any regular services as a self-employed individual as a direct result of the major disaster; or

(2) The individual is unable to reach the place, where services as a self-employed individual are performed, as a direct result of the major disaster; or

(3) The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed as a direct result of the major disaster; or

(4) The individual cannot perform services as a self-employed individual because of injury or illness caused as a direct result of the major disaster.

**§ 625.6 Disaster Unemployment Assistance; weekly amount.**

(a) *States of the United States.* (1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the weekly amount of compensation the individual would have been paid as regular compensation, as computed under the provisions of the applicable State law for a week of total unemployment, but in no event shall such amount be in excess of the maximum amount of regular compensation authorized under the applicable State law for that week: *Provided, That,* except as provided in paragraph (a) (2) of this section, in computing an individual's weekly amount of DUA, the base period, qualifying employment and wage requirements, and benefit formula of the applicable State law shall be applied; and for the purpose of this section employment, wages, and self-employment which are not covered by the applicable State law shall be treated in the same manner

and with the same effect as covered employment and wages, but shall not include employment, self-employment or wages earned or paid for employment or self-employment, which is contrary to or prohibited by any Federal law.

(2) If an unemployed worker or unemployed self-employed individual has insufficient wages in the applicable State's base period to compute a weekly amount under paragraph (a) (1), the weekly wage to be used in computing the individual's weekly amount shall be determined by multiplying the hourly wage the individual earned or would have earned in employment or self-employment by the number of hours in the normal work week in such employment or self-employment.

(3) A weekly amount computed under paragraph (a) (1) or paragraph (a) (2) of this section, if not an even dollar amount, shall be rounded to the next higher dollar.

(b) *Canal Zone and Guam.* In the Canal Zone and the Territory of Guam the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the average of the payments of regular compensation made by all States (except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the major disaster began. The weekly amount so determined if not an even dollar amount shall be rounded to the next higher dollar.

(c) *American Samoa and Trust Territory.* In American Samoa and the Trust Territory of the Pacific Islands the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the amount agreed upon by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the Federal Disaster Assistance Administration, which shall approximate 50 percent of the area-wide average of the weekly wages paid to individuals in the major disaster area in the quarter immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(d) *Partial and part-total unemployment.* The weekly amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of partial or part-total unemployment shall be the weekly amount determined under paragraph (a), (b), or (c) of this section, as the case may be, reduced (but not below zero) by the amount of wages that the individual earned in that week as determined by applying to such wages the earnings allowance for partial or part-total employment prescribed by the applicable State law.

**§ 625.7 Disaster unemployment assistance: duration.**

DUA shall be payable to an eligible unemployed worker or eligible unemployed self-employed individual for all weeks of unemployment which begin during a Disaster Assistance Period.

**§ 625.8 Applications for disaster unemployment assistance.**

(a) *Initial application.* An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency. An initial application filed later than 30 days after the announcement date of the major disaster shall be accepted as timely by the State agency if the applicant had good cause for the late filing, but in no event shall an initial application be accepted by the State agency if it is filed after the expiration of the Disaster Assistance Period. If the 30th day falls on a Saturday, Sunday, or a legal holiday in the major disaster area, the 30-day time limit shall be extended to the next business day.

(b) *Weekly applications.* Applications for DUA for weeks of unemployment shall be filed with respect to the individual's applicable State at the times and in the manner as claims for regular compensation are filed under the applicable State law, and on forms prescribed by the Secretary which shall be furnished to the individual by the State agency.

(c) *Filing in person.* (1) Except as provided in subparagraph (2) of this paragraph, all applications for DUA, including initial applications, shall be filed in person.

(2) Whenever an individual has good cause for not filing any application for DUA in person, the application shall be filed at such time, in such place, and in such a manner as directed by the State agency and in accordance with this Part and procedures prescribed by the Secretary.

(d) *IBPP.* The Interstate Benefit Payment Plan shall apply, where appropriate, to an individual filing applications for DUA.

(e) *Wage combining.* The "Interstate Arrangement for Combining Employment and Wages" (Part 616 of this Chapter) shall apply, where appropriate, to an individual filing claims for DUA: *Provided, That,* the "Paying State" shall be the applicable State as prescribed in the part.

(f) *Procedural requirements.* (1) The procedures for reporting and filing applications for DUA shall be consistent with this Part, and with the Secretary's "Standard for Claim filing, Claimant Reporting, Job Finding and Employment Services" (Employment Security Manual, Part V, sections 5000 et seq.) insofar as such standard is not inconsistent with this Part.

(2) The provisions of the applicable State law which apply hereunder to applications for and the payment of DUA shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of regular compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this Part.

**§ 625.9 Determinations of entitlement; notices to individual.**

(a) *Determination of initial application.* (1) The State agency shall promptly, upon the filing of an initial application for DUA, determine whether the individual is eligible, and if the individual is found to be eligible, the weekly amount of DUA payable to the individual and the period during which DUA is payable.

(2) An individual's eligibility for DUA shall be determined, where a reliable record of employment, self-employment and wages is not obtainable, on the basis of an affidavit submitted to the State agency by the individual, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency.

(b) *Determinations of weekly applications.* The State agency shall promptly, upon the filing of an application for payment of DUA with respect to a week of unemployment, determine whether the individual is entitled to a payment of DUA with respect to that week, and, if entitled, amount of DUA to which the individual is entitled.

(c) *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake; reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determination pertaining to DUA.

(d) *Notices to individual.* The State agency shall give notice in writing to the individual, by the most expeditious method, of any determination or redetermination of an initial application, and of any determination of a determination of an application for DUA with respect to a week of unemployment which denies DUA or reduces the weekly amount initially determined to be payable, and of any redetermination of an application for DUA with respect to a week of unemployment. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and written notices of redeterminations with respect to claim for regular compensation.

(e) *Promptness.* Full payment of DUA when due shall be made with the greatest promptness that is administratively feasible.

(f) *Secretary's standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for DUA, shall be consistent

with this Part and with the Secretary's "Standard for Claim Determinations—Separation Information" (Employment Security Manual, Part V, section 6010 et seq.).

**§ 625.10 Appeal and review.**

(a) *States of the United States.* (1) Any determination or redetermination made pursuant to § 625.9, by a State agency other than the State agency of the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, may be appealed by the applicant in accordance with the applicable State law to the first-stage administrative appellate authority in the same manner and to the same extent as a determination or redetermination of a right to regular compensation may be appealed under the applicable State law.

(2) Notice of the decision on appeal, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the appropriate Regional Administrator, Employment and Training Administration, and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the appropriate Regional Administrator.

(b) *Virgin Islands.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Virgin Islands, the individual shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34–609.45 of this Chapter by a referee appointed by the Secretary.

(2) Notice of the referee's decision, and the reasons therefore, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region II (New York), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(c) *Canal Zone, Guam, American Samoa, and Trust Territory.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Canal Zone, the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, the individual shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34–609.45 of this Chapter by a referee appointed by the Secretary.

(2) Notice of the referee's decision, and the reasons therefore, shall be given

to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(d) *Review by Regional Administrator.* (1) The appropriate Regional Administrator, Employment and Training Administration, upon request for review by an applicant or a State agency shall, or upon the Regional Administrator's own motion may, review a decision on appeal issued pursuant to paragraph (a), (b), or (c) of this section.

(2) Any request for review by an applicant or a State Agency shall be filed, and any review on the Regional Administrator's own motion shall be undertaken, with 15 days after notice of the decision on appeal was delivered or mailed to the individual.

(3) A request for review by an individual may be filed with the appropriate State agency, which shall forward the request to the appropriate Regional Administrator, Employment and Training Administration, or may be filed directly with the appropriate Regional Administrator. A request for review by a State agency shall be filed with the appropriate Regional Administrator, and a copy shall be served on the individual by delivery to the individual personally or by mail to the individual's last known address. When a Regional Administrator undertakes a review of a decision on the Regional Administrator's own motion, notice thereof shall be served promptly on the individual and the State agency. Whenever review by a Regional Administrator is undertaken, the State's appellate authority shall promptly forward to the Regional Administrator its entire record of the case. Where service on a party is required by this paragraph, adequate proof of service shall be furnished for the record to the Regional Administrator and be a condition of undertaking review pursuant to this paragraph.

(4) The decision of the Regional Administrator on review shall be rendered promptly, and not later than 15 days after receipt of the record from the State's appellate authority.

(5) Notice of the Regional Administrator's decision shall be mailed promptly to the last known address of the individual, to the State agency of the applicable State, and to the Administrator, Unemployment Insurance Service. The decision of the Regional Administrator shall be the final decision under the Act and this Part, unless there is further review before the Assistant Secretary as provided in paragraph (e) of this section.

(e) *Further review by Assistant Secretary.* (1) The Assistant Secretary for



Employment and Training on his own motion may review any decision by a Regional Administrator issued pursuant to paragraph (d) of this section.

(2) Notice of a motion for review by the Assistant Secretary shall be given to the applicant, the State agency of the applicable State, the appropriate Regional Administrator, and the Administrator, Unemployment Insurance Service.

(3) When the Regional Administrator and the State agency are notified of the Assistant Secretary's motion to review, they shall forward all records in the case to the Assistant Secretary.

(4) Review by the Assistant Secretary shall be solely on the records in the case, any other written contentions or evidence requested by the Assistant Secretary, and any further evidence or arguments offered by the individual the State agency, the Regional Administrator, or the Administrator, Unemployment Insurance Service which are mailed to the Assistant Secretary within 15 days after mailing the notice of motion for review.

(5) Upon review of a case under this paragraph, the Assistant Secretary may affirm, modify, or reverse the decision of the Regional Administrator, and may remand the case for further proceedings and decision in accordance with the Assistant Secretary's decision.

(6) The decision of the Assistant Secretary shall be made promptly, and notice thereof, shall be sent to the applicant, the State agency, the Regional Administrator, and the Administrator, Unemployment Insurance Service.

(7) The decision of the Assistant Secretary shall be final and conclusive, and binding on all interested parties, and shall be a precedent applicable throughout the States.

(f) *Procedural requirements.* (1) Decisions on appeals from determinations or redeterminations by the State agencies shall accord with the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in Part 650 of this Chapter.

(2) The provisions on right of appeal and opportunity for hearing and review with respect to applications for DUA shall be consistent with this Part and with sections 303(a) (1) and 303(a) (3) of the Social Security Act, 42 U.S.C. 503 (a) (1) and 503(a) (3).

(3) Any petition or other matter required to be filed within a time limit under this section shall be deemed to be filed at the time it is delivered to an appropriate office or at the time of the postmark if it is mailed by the United States Postal Service to an appropriate office.

(4) If any limited time period specified in this section ends on a Saturday, Sunday, or a legal holiday in the major disaster area, the time limit shall be extended to the next business day.

#### § 625.11 Provisions of State law applicable.

The terms and conditions of the State law of the applicable State for an individual, which apply to claims for, and the payment of, regular compensation shall apply to application for, and the

payment of, DUA to each such individual, only as specifically set forth in the provisions of this Part.

#### § 625.12 The applicable State for an individual.

(a) *Applicable State.* The applicable State for an individual shall be that State in which the individual's unemployment is the result of a major disaster.

(b) *Limitation.* DUA is payable to an individual only by an applicable State as determined pursuant to paragraph (a) of this section:

(1) Only pursuant to an Agreement entered into pursuant to the Act and this Part, and with respect to weeks in which the Agreement is in effect; and

(2) Only with respect to weeks of unemployment that begin during a Disaster Assistance Period.

#### § 625.13 Restrictions on entitlement; disqualification.

(a) *Income reductions.* The amount of DUA payable to an individual for a week of unemployment, as computed pursuant to § 625.6, shall be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application therefor and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment:

(1) Compensation as defined in § 625.2(d), except Special Unemployment Assistance;

(2) Any benefit or insurance proceed from any source for loss of wages due to illness or disability;

(3) A supplemental unemployment benefit pursuant to a collective bargaining agreement;

(4) Private income protection insurance;

(5) Any workers' compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the individual has become the head of the household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area; and

(6) The prorated amount of a retirement pension or annuity under a public or private retirement plan or system, prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from unemployment compensation payable under the applicable State law.

(7) The prorated amount of primary benefits under Title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the State law of the applicable State for the individual.

(b) *Disqualification.* (1) An individual shall not be entitled to DUA for any week after the week in which the individual is reemployed in a suitable position.

(2) An individual who refuses without good cause to accept a bona fide offer of

reemployment in a position suitable to the individual, or to investigate or accept a referral to a position which is suitable to and available to the individual, shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in the Disaster Assistance Period. For the purposes of this paragraph, a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual, if it is impracticable for the individual to accept the position, or if acceptance for the position would, as to the individual, be inconsistent with any labor standard in section 3340(a) (5) of the Federal Unemployment Tax Act, 26 U.S.C. 3304(a) (5), or the comparable provisions of the State law of the applicable State for the individual.

#### § 625.14 Overpayments; disqualification for fraud.

(a) *Finding and repayment.* If the State agency of the applicable State finds that an individual has received a payment of DUA to which the individual was not entitled under the Act and this Part, whether or not the payment was due to the individual's fault or misrepresentation, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(b) *Recovery by offset.* (1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any DUA payable to the individual under the Act and this Part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitation in § 619.13(a) (3) (ii) of this Chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of DUA made to the individual by another State, by deductions from any DUA payable by the State agency to the individual under the Act and this Part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitations in § 619.13(a) (3) (ii) of this Chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(c) *Debts due the United States.* DUA payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person.

(d) *Recovered overpayments.* Overpayments recovered in any manner shall be credited or returned, as the case may be, to the appropriate account of the United States.

(e) *Application of State law.* Any provision of State law authorizing waiver of recovery of overpayments of compensation shall not be applicable to DUA.

(f) *Final decision.* Recovery of any overpayment of DUA shall not be enforced by the State agency until the determination establishing the overpayment has become final, or if appeal is taken from the determination, until the decision after opportunity for a fair hearing has become final.

(g) *Procedural requirements.* (1) The provisions of paragraphs (c), (d), and (f) of § 625.9 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 625.10 shall apply to determinations and redeterminations made pursuant to this section.

(h) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of DUA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to regular compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual*, Part V, sections 7510 et seq.).

(i) *Disqualification for fraud.* Any individual who, with respect to a major disaster, makes or causes another to make a false statement or misrepresentation of a material fact, knowing it to be false, or knowingly fails or causes another to fail to disclose a material fact, in order to obtain for the individual or any other person a payment of DUA to which the individual or any other person is not entitled, shall be disqualified as follows:

(1) If the false statement, misrepresentation, or nondisclosure pertains to an initial application for DUA—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(2) If the false statement, misrepresentation, or non-disclosure pertains to a week for which application for a payment of DUA is made—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure such other individual shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA.

§ 625.15 Inviolate rights to DUA.

(a) *Waiver of rights void.* Any agreement by an individual purporting to waive, release, or commute any right of the individual to DUA shall be void.

(b) *Assignment of rights void.* Any purported assignment, pledge, or encumbrance of any right of an individual to DUA shall be void.

(c) *Legal process prohibited.* Except as provided in § 625.14 or by applicable statute of the United States or regulation of the United States Department of Labor, any rights of an individual to DUA shall be exempt from levy, execution, attachment, garnishment, order for the payment of attorney fees, or any other remedy whatsoever provided for the collection of debt, and such remedies shall be precluded absolutely. This prohibition shall apply to sums payable to an individual and to sums paid to the individual.

(d) *Discrimination prohibited.* No person shall discriminate against any individual in regard to hiring or tenure of work or any term or condition of employment on account of seeking, applying for, or receiving any right to DUA.

(e) *Obstruction prohibited.* No person shall in any manner obstruct or impede, or attempt to obstruct or impede, any individual in seeking, applying for, or receiving any right to DUA.

§ 625.16 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(b) *Disclosure of information.* Information in records made and maintained by a State agency in administering the

Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law, and consistently with section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1). This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the United States Department of Labor, or in the case of information, reports and studies requested pursuant to § 625.19, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or regulations of the United States Department of Labor promulgated thereunder.

§ 625.17 Announcement of the beginning of a disaster assistance period.

Whenever a major disaster is declared in a State, the State agency shall promptly announce throughout the major disaster area by all appropriate news media that individuals who are unemployed as the result of the major disaster may be entitled to DUA; that they should file initial applications for DUA as soon as possible, but not later than the 30th day after the announcement date; the beginning date of the Disaster Assistance Period; and where individual may obtain further information and file applications for DUA.

§ 625.18 Public access to agreements.

The State agency of a State will make available to any individual or organization a true copy of the Agreement with that State for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

§ 625.19 Information, reports and studies.

(a) *Routine responses.* State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this Part.

(b) *Final Report.* In addition to such other reports as may be required by the Secretary, within 60 days after all payments of disaster unemployment assistance as the result of a major disaster in the State have been made the State agency shall submit a final report to the Secretary. A final report shall contain a narrative summary, a chronological list of significant events, pertinent statistics about the disaster unemployment assistance provided to disaster victims, brief statements of major problems encountered, discussion of lessons learned, and suggestions for improvement of the program during future major disasters.



## § 625.20 Savings clause.

The regulations in this part do not apply to applications, determinations, hearings, or other administrative or judicial proceedings under section 240 of

the Disaster Relief Act of 1970, Public Law 91-606, 84 Stat. 1744, with respect to major disasters declared prior to April 1, 1974, and such applications, determinations, hearings, or other administrative or judicial proceedings shall

remain subject to section 240 of the Disaster Relief Act of 1970 and the regulations in this Part issued thereunder which were in effect on March 31, 1974.  
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